THE CHAPTER ON JIHAD FROM AVERROES' LEGAL HANDBOOK AL-BIDĀYAH

The jihad

The most important rules concerning this subject will be dealt with in two chapters. The first will contain the most important regulations as regards warfare, the second the rules pertaining to the enemy's property when it is captured by the Moslems.[1]

The first chapter consists of seven paragraphs :

1. The legal qualification (*ḥukm*) of this activity and the persons who are obliged to take part in it.
2. The enemy.
3. The damage allowed to be inflicted upon the different categories of enemies.
4. The prerequisites for warfare.
5. The maximum number of enemies against which one is obliged to stand one's ground.
6. Truce.
7. The aims of warfare.

Par. 1. The legal qualification (*ḥukm*) of this activity and the persons obliged to take part in it.

Scholars agree that the jihad is a collective not a personal obligation. Only 'Abd Allāh Ibn al-Ḥasan [2] professed it to be a recommendable act. According to the majority of scholars, the compulsory nature of the jihad is founded on [K 2:216] : "*Fighting is prescribed for you, though it is distasteful to you*".[3] That this obligation is a collective and not a personal one, i.e. that the obligation, when it can be

properly carried out by a limited number of individuals, is cancelled for the remaining Moslems, is founded on [K 9:112]: *"It is not for the believers to march out all together"*,[4] on [K 4:95]: *"Though to all, Allah hath promised the good (reward)"* [5] and, lastly, on the fact that the Prophet never went to battle without leaving some people behind. All this together implies that this activity is a collective obligation. The obligation to participate in the jihad applies to adult free men who have the means at their disposal to go to war and who are healthy, that is, not ill or suffering from chronic diseases. There is absolutely no controversy about the latter restriction because of [K 48:17]: *"There is no blame upon the blind, or upon the lame, or upon the sick"* [6] and because of [K 9:91]: *"No blame rests upon the frail or upon the sick or upon those who find nothing to contribute"*.[7] Nor do I know of any dissentient views as regards the rule that this obligation applies only to free men. Nearly all scholars agree that this obligation is conditional on permission granted by the parents. Only in the case that the obligation has become a personal one, for instance because there is nobody else to carry it out, can this permission be dispensed with.[8] This prerequisite of permission is based on the following authentic Tradition: *"Once a man said to the Messenger of Allah: 'I wish to take part in the jihad'. The Messenger said to him: 'Are both your parents still alive?' When he answered in the affirmative, the Messenger said: 'Then perform the jihad for their sake'"*. Scholars are not agreed whether this permission is also required of parents who are polytheists. There is controversy, too, about the question whether the creditor's permission has to be asked when a person has run into debt. An argument in favour of this can be found in the following Tradition: *"A man said to the Prophet: 'Will*

Allah forgive me my sins if I shall sacrifice myself patiently and shall be killed in the way of Allah (i.e. by taking part in the jihad)?' The Prophet said: 'Yes, with the exception of your debts. This Djibrīl has told me before'".[9] The majority of scholars do not consider it obligatory, especially not when the debtor leaves enough behind to serve as payment for his debts.

Par. 2. The Enemy.

Scholars agree that all polytheists should be fought. This is founded on [K 8:39]: "*Fight them until there is no persecution and the religion is entirely Allah's*".[10] However, it has been related by Mālik [11] that it would not be allowed to attack the Ethiopians and the Turks on the strength of the Tradition of the Prophet: "*Leave the Ethiopians in peace as long as they leave you in peace*". Questioned as to the authenticity of this Tradition, Mālik did not acknowledge it, but said: "People still avoid attacking them".

Par. 3. The damage allowed to be inflicted upon the different categories of enemies.

Damage inflicted upon the enemy may consist in damage to his property, injury to his person or violation of his personal liberty, i.e. that he is made a slave and is appropriated. This may be done, according to the *Consensus* (*idjmā'*) to all polytheists: men, women, young and old, important and unimportant. Only with regard to monks do opinions vary; for some take it that they must be left in peace and that they must not be captured, but allowed to go unscathed and that they may not be enslaved. In support of their opinion they bring forward the words of the Prophet: "*Leave*

them in peace and also that to which they have dedicated themselves",[12] as well as the practice of Abū Bakr.[13]

Most scholars are agreed that, in his dealings with captives, various policies are open to the Imam [head of the Islamic state, caliph]. He may pardon them, enslave them, kill them, or release them either on ransom or as *dhimmī* [non-Moslem subject of the Islamic state], in which latter case the released captive is obliged to pay poll-tax (*djizyah*). Some scholars, however, have taught that captives may never be slain. According to al-Ḥasan Ibn Muhammad al-Tamīmī,[14] this was even the *Consensus* (*idjmā'*) of the *Ṣaḥābah* [contemporaries of Mohammed that have known him]. This controversy has arisen because, firstly, the Koran-verses contradict each other in this respect; secondly, practice [of the Prophet and the first caliphs] was inconsistent; and lastly, the obvious interpretation of the Koran is at variance with the Prophet's deeds. The obvious interpretation of [K 47:4]: "*So when ye meet those who have disbelieved* (*let there be*) *slaughter until when ye have made havoc of them*" [15] is that the Imam is only entitled to pardon captives or to release them on ransom. On the other hand, [K 8:67]: "*It was not for a prophet to have prisoners so as to cause havoc in the land*",[16] as well as the occasion when this verse was revealed [viz. the captives of Badr] would go to prove that it is better to slay captives than to enslave them. The Prophet himself would in some cases slay captives outside the field of battle, while he would pardon them in others. Women he used to enslave. Abū 'Ubayd [17] has related that the Prophet never enslaved male Arabs. After him, the *Ṣaḥābah* reached unanimity about the rule that the People of the Book (*ahl al-kitāb*), both male and female, might be enslaved. Those who are of the opinion that the verse which prohibits slaying [K 47:4] abrogates the

Prophet's example, maintain that captives may not be slain. Others profess, however, that this verse does not concern itself with the slaughter of captives and that it was by no means intended to restrict the number of policies possible with regard to captives. On the contrary, they say, the fact that the Prophet used to slay captives adds a supplementing rule to the verse in question [K 47:4] and thus removes the occasion for the complaint that he omitted to kill the captives of Badr. These, now, do profess that the killing of captives is allowed.

It is only allowed to slay the enemy on the condition that *amān* [safe-conduct] has not been granted. There is no dissension about this among the Moslems. There is controversy, however, concerning the question who is entitled to grant *amān*. Everyone is agreed that the Imam is entitled to this. The majority of scholars are of the opinion that free Moslem males are also entitled to grant it, but Ibn Mādjishūn [18] maintains that in this case, it is subject to authorization by the Imam. Similarly, there is controversy concerning the *amān* granted by women and slaves. Ibn Mādjishūn and Saḥnūn [19] hold that *amān* granted by a woman is also subject to authorization by the Imam. Abū Ḥanīfah [20] has taught that the *amān* granted by a slave is only valid when the slave is allowed to join in the fighting.[21] The source of the controversy is that a general rule is in conflict with the analogous interpretation of another rule. The general rule is founded on the words of the Prophet: "*The blood(money) of all Moslems is equal. Even the humblest strives for their protection. Together, they make up a unity against the others*". These words, in their universality, imply that *amān* granted by a slave is valid. The conflicting analogy is that in order to be able to grant *amān*, full legal

capacity is required. Now, a slave has only partial legal capacity by the very fact of his being a slave. By analogy, the fact that he is a slave should counteract the validity of his *amān*, as it does with regard to numerous other legal acts. The general rule, then, should be restricted by analogy.

The controversy about the validity of *amān* granted by a woman owes its origin to two different readings of the words of the Prophet: "*We grant protection to those to whom you have granted protection, Umm Hāni'*" as well as to the question whether women are to be put on a par with men by analogy. Some read in the words of the Prophet an authorization of the *amān* granted by Umm Hāni', not a confirmation of its validity, and they infer that her *amān* would have had no legal effects had the Prophet not authorized it. Consequently, they maintain that *amān* granted by a woman is only valid when the Imam has authorized it. Others hold that the Prophet confirmed the *amān* granted by Umm Hāni' in the sense that he approved something which already existed and had legal effects, not in the sense that the act was only validated by his authorization. Thus, the latter group maintains that a woman is entitled to grant valid *amān*. This view finds also favour with those who, in this respect, put women on a par with men and feel that there is no difference between them here. Others, who are of the opinion that a woman is inferior to a man, consider an *amān* granted by her invalid. Anyhow, *amān* does not afford protection against enslavement but only against death.[22] The controversy [about the validity of *amān* granted by women] might also be explained by the divergent opinions about the use of the male plural: does this include women or not? All this, of course, according to legal usage.

As regards injury to the person, that is, the slaying of the

enemy, the Moslems agree that in times of war, all adult, able-bodied, unbelieving males may be slain. As to the question whether the enemy may also be slain after he has been captured, there is the above-mentioned controversy. There is no disagreement about the rule that it is forbidden to slay women and children, provided that they are not fighting, for then women, in any case, may be slain. This rule is founded on the fact that, according to authoritative Traditions, the Prophet prohibited the slaughter of women and children and once said about a woman who had been slain : "*She was not one who would have fought*".[23]

There is controversy about the question whether it is allowed to slay hermits who have retired from the world, the blind, the chronically ill and the insane, those who are old and unable to fight any longer, peasants, and serfs. Mālik professes that neither the blind, nor the insane, nor hermits may be slain and that of their property not all may be carried off, but that enough should be left for them to be able to survive. Neither is it allowed, according to him, to slay the old and decrepit. Of the same opinion are Abū Ḥanīfah and his pupils. Thawrī [24] and Awzā'ī,[25] however, have taught that of these groups, only the aged may not be slain. On the other hand, Awzā'ī had also taught that this prohibition is also valid with regard to peasants. According to the most authoritative opinion of Shāfi'ī,[26] all of these categories may be slain. The source of this controversy is to be found in the fact that in a number of Traditions, rules are given which are at variance with the general rule from the Book [i.e. the Koran] as well as with the general rule of the authentic Tradition : "*I have been commanded to fight the people until they say* : '*There is no God but Allah*' ".[27] [K 9:5] : "*Then when the sacred months have slipped away,*

slay the polytheists wherever ye find them" [28] as well as the above-mentioned Tradition give as a general rule that every polytheist must be slain, whether he is a monk or not. Nevertheless, the following Traditions, among others, are brought forward in support of the prescription that the lives of the categories mentioned must be saved: 1. Dāwūd Ibn al-Ḥaṣīn [29] has related on the authority of 'Ikrimah [30] on the authority of Ibn 'Abbās [31] that the Prophet used to say, whenever he sent out his armies: "*Do not slay hermits*". 2. On the authority of Anas Ibn Mālik [32] it has been related that the Prophet said: "*Do not slay the old and decrepit, children, or women. Do not purloin what belongs to the spoils*". Abū Dāwūd [33] included this Tradition in his compilation. 3. Mālik has related that Abū Bakr said: "*You will find people who will profess that they have dedicated themselves entirely to God. Leave them in peace and also that to which they have dedicated themselves*". 4. "*Do not slay women, nor infants, nor those worn with age*". However, it seems to me that the chief source for the controversy about this question is that [K 2:190]: "*Fight in the way of Allah those who fight you, but do not provoke hostility; verily Allah loveth not those who provoke hostility*" is in conflict with [K 9:5]: "*Then when the sacred months have slipped away, slay the polytheists wherever ye find them*".[34] Some maintain that K 9:5 has abrogated K 2:190, because at the outset it was only allowed to slay people who were able-bodied.[35] Consequently, the latter take it that K 9:5 gives a rule without exceptions. Others are of the opinion that K 2:190 has not been abrogated and that it is valid with regard to all those categories which do not take part in the fighting. According to these, K 2:190 gives an exceptive regulation as regards K 9:5. Shāfi'ī, in support of his interpretation, argues that it has been related

on the authority of Sumrah [36] that the Prophet commanded: "*Slay the polytheists but spare their children*". The only motive why the enemy should be put to death, according to him, is their unbelief. This motive, then, goes for all unbelievers. Those who maintain that peasants are not to be slain argue that Zayd Ibn Wahb [37] has related: "*We received a letter from 'Umar,*[38] *saying: Do not purloin what belongs to the spoils, do not act perfidiously, do not slay babies and be god-fearing with regard to peasants*".[39] The prohibition to slay polytheist serfs is based on the Tradition of Rabāḥ Ibn Rabī'ah: "*Once, when Rabāḥ Ibn Rabī'ah sallied forth with the Messenger of Allah, he and (the) companions of the Prophet passed by a woman who had been slain. The Messenger halted and said: 'She was not one who would have fought.' Thereupon he looked at the men and said to one of them: 'Run after Khālid Ibn al-Walīd (and tell him) that he must not slay children, serfs or women'* ". Basically, however, the source of their controversy is to be found in their divergent views concerning the motive why the enemy may be slain. Those who think that this is because they are unbelieving do not make exceptions for any polytheist. Others, who are of the opinion that this motive consists in their capacity for fighting, in view of the prohibition to slay female unbelievers, do make an exception for those who are unable to fight or who are not as a rule inclined to fight, such as peasants and serfs. Enemies must not be tortured nor must their bodies be mutilated. The Moslems agree that they may be slain with weapons. Controversy exists, however, concerning the question whether it is allowed to burn them by fire. Some consider it reprehensible to burn or to assail them with fire. This is also the opinion of 'Umar. It has been related that Mālik held a similar view. Sufyān al-Thawrī, on the other

hand, considered it admissible. Others allow it only in case the enemy has started it. The source of this controversy is again in the fact that a general rule and a particular rule are at variance. The general rule is given by [K 9:5]: "*Slay the polytheists wherever ye find them*".[40] This does not preclude any manner of slaying. The particular rule is founded on an authoritative Tradition, according to which the Prophet said to a certain man: "*If ye should seize him, then slay him, yet do not burn him. No one is free to punish by means of fire, save the Lord of the (Hell) fire (i.e. Allah)*". Most scholars agree that fortresses may be assailed with mangonels, no matter whether there are women and children within them or not. This is based on the fact that the Prophet used mangonels against the population of al-Ṭā'if. Some, among whom is Awzā'ī, have taught that mangonels should not be resorted to when Moslem captives or children are within the [walls of the] fortress. Layth,[41] on the other hand, considered it admissible. The argument of those who do not allow it, reads [K 48:25]: "*Had they been separated out, We should have inflicted upon those of them who have disbelieved a punishment painful*".[42] Those who do allow it do so, as it were, with a view to the general interest. So much for the extent to which injury may be inflicted upon the person of the enemy.

Opinions vary as to the damage that may be inflicted on their property, such as buildings, cattle and crops. Mālik allowed the felling of trees, the picking of fruits and the demolishing of buildings, but not the slaughter of cattle and the burning of date-palms. Awzā'ī disapproved of the felling of fruit-trees and the demolishing of buildings, regardless of whether the buildings in question were churches or not. According to Shāfi'ī, dwellings and trees may be burnt as

long as the enemy have the disposal of fortresses. When that is not the case, he considers it reprehensible to demolish buildings and to fell trees. The reason why there is this divergence of opinions is that the practice of Abū Bakr was at variance with that of the Prophet. According to an authoritative Tradition, the Prophet set fire to the palm-trees of Banū Naḍīr. On the other hand, it has been related as an irrefutable fact that Abū Bakr said: "*Do not fell trees and do not demolish buildings*". Some are of the opinion that Abū Bakr could only have spoken thus because he knew the practice of the Prophet to have been abrogated, since he would of course not have been at liberty to act in defiance of this practice had he known it. There are also those who take it that this policy of the prophet [did not give a general rule but] had reference only to Banū Naḍīr, since it was them who attacked him. Those who bring forward all these arguments adhere to the view of Abū Bakr. Others, however, go entirely by the practice of the Prophet. They maintain that it is impossible that anybody's words or deeds could be put forward as an argument against his practice and they consider it lawful to burn trees. Mālik makes a distinction between cattle and trees. According to him, the slaughter of cattle is torture, which is prohibited. Moreover, the Prophet is not related ever to have slain animals. So much for the extent to which it is allowed to inflict damage to the lives and property of the unbelievers.

Par. 4. The prerequisites for warfare.

According to all scholars, the prerequisite for warfare is that the enemy must have heard the summons to Islam. This implies that it is not allowed to attack them before the summons has reached them. All Moslems are agreed

about this because of [K 17:15] : "*We have not been accustomed to punish until We have sent a messenger*".[43] However, there is controversy about the question whether the summons should be repeated when the war is resumed. Some hold that this is obligatory, others consider it merely recommendable, while according to a third group it is neither obligatory nor recommendable [and therefore a matter of indifference]. The source of this controversy is that the words and the deeds of the Prophet are at variance. According to an authoritative Tradition, the Prophet, when he sent out his armies, used to say to the leader : "*When ye will encounter your polytheist foes, then summon them to three things. Accept that which they consent to and refrain from* [*attacking*] *them. Summon them to conversion to Islam. If they consent to that, accept it and refrain from* [*attacking*] *them. Summon them thereupon to sally forth from their territory to the Abode of the Emigrants* (*muhādjirūn*) [*i.e. Medina*] *and impart to them that, if they do so, they will have the same rights and duties as the Emigrants. If they are unwilling to do so, however, and prefer to remain in their own territory, impart to them thereupon that they will be like the converted Beduins, who are subject to the same supreme authority of Allah as the* [*other*] *believers, but who are not entitled to a share in the spoils, unless they join the Moslems in the war. If they refuse that, then summon them to the payment of poll-tax. If they consent to that, accept it and refrain from* [*attacking*] *them. But if they refuse it, then invoke the help of Allah and attack them*". Nevertheless it has been related irrefutably that the Prophet repeatedly made sudden attacks upon the enemy at night or at dawn. Some, consequently, maintain, and they are in the majority, that the practice of the Prophet has abrogated his words. According to the latter, the relevant dictum

dates back from an early period of Islam, before the summons had been propagated, because it contains a summons to emigration (*hidjrah*).[44] Others are of the opinion that more weight should be attached to the Prophet's words than to his deeds, because the latter are to be interpreted in the light of the particular circumstances. Those, lastly, who consider it recommendable, do so in order to reconcile both views.[45]

Par. 5. The maximum number of enemies against which one is obliged to stand one's ground.

The maximum number of enemies against which one is obliged to stand one's ground is twice the number [of one's own troops]. About this, everybody agrees on account of [K 8:66] : "*Now Allah hath made it lighter for you and knoweth that there is weakness among you*".[46] Ibn Mādjishūn maintains, on the authority of Mālik, that the actual force, rather than the number, is to be considered and that it might be allowed for a single man to flee before another if the latter should possess a superior horse, superior weapons and superior physical strength.

Par. 6. Truce.

The conclusion of truce is considered by some to be permitted from the very outset and without an immediate occasion, provided that the Imam deems it in the interest of the Moslems. Others maintain that it is only allowed when the Moslems are pressed by sheer necessity, such as a civil war and the like. As a condition for truce, it may be stipulated that the enemy pay a certain amount of money to the Moslems. This is not poll-tax (*djizyah*), because for that it would be required that they come under Islamic rule [which

is not the case here]. Such a stipulation [the payment of a tribute], however, is not obligatory. Awzā'ī even considered it admissible that the Imam should conclude a truce with the stipulation that the Moslems pay a certain amount to the enemy, should this be forced upon them by emergency, such as a civil war and the like. Shāfi'ī's opinion is that the Moslems may never give anything to the unbelievers, unless they are in mortal fear of being extinguished, on account of the enemy's superiority or because they are being harrassed by disasters. Among those who profess that the Imam is entitled to conclude a truce when he considers it in the interest [of the Moslems] are Mālik, Shāfi'ī and Abū Ḥanīfah. Shāfi'ī maintains that a truce may not be concluded for a period longer than that of the truce which the Prophet concluded with the unbelievers in the year of Ḥudaybiyyah.[47] The controversy about the question whether the conclusion of truce is also allowed without a compulsive reason, is rooted in the fact that the obvious interpretation of [K 9:5]: "*Slay the polytheists wherever ye find them*" [48] and that of [K 9:29]: "*Fight against those who do not believe in Allah nor in the last day*",[49] contradict that of [K 8:61]: "*If they incline to make peace, incline thou to it, and set thy trust upon Allah*".[50] Some hold that the verse which commands the Moslems to fight the polytheists until they have been converted or until they pay poll-tax (*djizyah*) [K 9:29] abrogates the Peace-verse [K 8:61]. Consequently, they maintain that truce is only admissible in cases of necessity. Others are of the opinion that the Peace-verse [K 8:61] supplements the other two verses and they consider the concluding of truce allowed if the Imam deems it right. They also argue, in support of their view, that the Prophet acted accordingly, as the truce of Ḥudaybiyyah had not

been concluded from necessity. According to Shāfi'ī, the principle is that polytheists must be fought until they have been converted or until they are willing to pay poll-tax (*djizyah*). The acts of the Prophet in the year of Ḥudaybiyyah are an exception to this [principle]. Therefore, says Shāfi'ī, a truce may never exceed the period for which the Prophet concluded truce in the case of Ḥudaybiyyah. Still, there is controversy about the duration of this period. According to some it amounts to four years, but according to others three or ten years. Shāfi'ī opts for the latter. As to the view of some, that in cases of emergency such as civil war and the like, the Moslems may conclude a truce on the stipulation that they pay the enemy a certain amount of money, this is based on the Prophet's example, for it has been related that he was seriously contemplating to bestow a third of the date-harvest of Medina upon a group of polytheists belonging to the Confederates with a view to induce them to move off. However, before he had had time to reach an agreement on the basis of the quantity of dates he had been allowed [by the people of Medina] to give away, Allah granted him the victory.[51] The opinion of those who profess that a truce may only be concluded when the Moslems are in mortal fear of extinction, is founded on analogous application of the rule that Moslem captives may be ransomed; for when Moslems have been reduced to such a state they are in the position of captives.

Par. 7. The aims of warfare.

The Moslems are agreed that the aim of warfare against the People of the Book, with the exception of those belonging to the Quraysh-tribe and Arab Christians, is twofold : either conversion to Islam, or payment of poll-tax (*djizyah*). This

is based on [K 9:29] : "*Fight against those who do not believe in Allah nor in the last Day, and do not make forbidden what Allah and His messenger have made forbidden, and do not practice the religion of truth, of those who have been given the Book, until they pay the jizya off-hand, being subdued*". Most lawyers likewise agree that poll-tax (*djizyah*) may also be collected from Zoroastrians (*madjūs*) on the strength of the words of the Prophet : "*Treat them like the People of the Book*". There is, however, controversy with regard to polytheists who are not People of the Book : is it allowed to accept poll-tax (*djizyah*) from them or not? Some, like Mālik, have taught that it may be collected from any polytheist. Others make an exception for the polytheist Arabs. Shāfi'ī, Abū Thawr [52] and a few others maintain that poll-tax (*djizyah*) may only be accepted from People of the Book and Zoroastrians. The controversy is again brought about by the fact that a general rule conflicts with a particular one. The general rule is derived from [K 2:193 and 8:39] : "*Fight them until there is no persecution* (*i.e. persecution of believers by polytheists*), *and religion becomes Allah's*",[53] and from the Tradition : "*I have been commanded to fight the people until they say : 'There is no god but Allah'. When they say that, then their lives and property are inviolable to me, except* [*in the case when*] *the* [*law of*] *Islam allows it* [*to take them*]. *They will be answerable to Allah*". The particular rule is founded on the Tradition mentioned earlier,[54] viz. that Mohammed used to say to the leaders of troops which he sent out to the polytheist Arabs : "*When ye will encounter your polytheist foes, then summon them to three things*", etc. In this Tradition, poll-tax (*djizyah*) is also mentioned. Now, some scholars hold that a general rule cancels a particular one if the general rule was revealed at a later date. These do not accept poll-tax (*djizyah*)

from others than People of the Book, since the verses prescribing, in general terms, to fight them are of a more recent date than the Tradition mentioned; for the general command to fight the polytheists is to be found in the *Sūrat Barā'ah* [55] which was revealed in the year of the conquest of Mecca.[56] The Tradition in question, on the other hand, dates back from before the conquest of Mecca, in view of the fact that it contains a summons to emigration.[57] Others, however, maintain that general rules should always be interpreted in association with the particular rules, no matter whether the one is more recent than the other or whether this is unknown. The latter group, accordingly, accepts poll-tax (*djizyah*) from any polytheist. The People of the Book are in an exceptional position with respect to the other polytheists because they have been excluded from the general rule just mentioned, on the strength of the particular rule given in [K 9:29]: *"... of those who have been given the Book, until they pay the jizya off-hand, being subdued"*.[58] The poll-tax (*djizyah*) itself and the rules related to it will be dealt with in the next chapter. So much for the principles of warfare. One famous question remains to be touched upon in this connection: that whether it is prohibited to march into hostile territory carrying a copy of the Koran. Most scholars do not consider it allowed because an authoritative rule to this effect has been handed down from the Prophet in an authentic Tradition. Abū Ḥanīfah, on the other hand, has taught that it is allowed, provided that it is done under the protection of a strong and safe army. The source of this controversy is the question: was this prohibition put in general terms in order that it might hold good universally and without exceptions, or was the prohibition put in general terms while it was nevertheless intended as a particular rule?